IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI KANSAS CITY DIVISION (WESTERN DIVISION)

JOHN DOE, individually and as	
Next Friend of JACK DOE,	
and)
)
JANE DOE)
)
Plaintiffs.) Cause No.: 4:24-CV-00339
)
) Removed from the Circuit Court of
vs.) Clay County, Missouri
) Cause No.: 24CY-CV02611
)
GEICO CASUALTY COMPANY,)
,) JURY TRIAL DEMANDED
Defendant.)

DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' PETITION FOR DAMAGES

COMES NOW Defendant, GEICO CASUALTY COMPANY, by and through undersigned counsel, and pursuant to Fed. R. Civ. P. 10(a), Fed R. Civ. P. 17(a) and Fed. R. Civ. P. 12(b)(6), and for its Motion to Dismiss Plaintiffs' Petition for Damages, states as follows:

- 1. On or about March 7, 2024, Plaintiffs filed their Petition for Damages in the Circuit Court of Clay County, State of Missouri.
- 2. Plaintiffs filed their Petition under pseudonyms, using the pseudonyms John Doe, Jack Doe and Jane Doe.
- 3. The state court did not rule on Plaintiffs' request to proceed under pseudonyms, yet Plaintiffs filed their cause of action using pseudonyms, nonetheless.
 - 4. Per Fed. R. Civ. P. 10(a), "[t]he title of the complaint must name all the parties."
- 5. Fed R. Civ. P. 17(a) provides that "[a]n action must be prosecuted in the name of the real party in interest."

- 6. An entity cannot sue under a pseudonym but rather must sue under its own name, as the real party in interest. *In re S. Cent. States Bakery Prod. Antitrust Litig.*, 86 F.R.D. 407, 411 (M.D. La. 1980) (*citing* F.R.C.P. 17(a); *Petition of M/V Elaine Jones*, 480 F.2d 11, 25-26 (5th Cir. 1973), *cert. denied*, 423 U.S. 840, 96 S.Ct. 71, 46 L.Ed.2d 60 (1975)).
- 7. There is a "strong presumption against allowing parties to use a pseudonym." W.G.A. v. Priority Pharmacy. Inc., 184 F.R.D. 616, 617 (E.D.Mo.1999); AB v. HRB Pro. Res. LLC, No. 4:19-cv-00817-HFS, 2020 WL 12675330, at *1 (W.D. Mo. Dec. 31, 2020); Doe v. New Prime, Inc., No. 6:23-CV-03278-RK, 2024 WL 623932, at *1 (W.D. Mo. Feb. 12, 2024).
- 8. Because Plaintiffs have failed to name themselves in the Petition for Damages, they have failed to state a claim upon which relief may be granted, pursuant to Fed. R. Civ. P. 12(b)(6).
- 9. The Court has stated that "it is clear that plaintiff's original complaint using a false name fails to comply with Fed.R.Civ.P. 10(a) and is subject to dismissal." *Doe v. Indiana Black Expo, Inc.*, 923 F. Supp. 137, 143 (S.D. Ind. 1996); *see also Zocaras v. Castro*, 232 F.R.D. 694, 698 (S.D. Fla. 2005), aff'd, 465 F.3d 479 (11th Cir. 2006).
- 10. Defendant has filed Suggestions in Support of this Motion, which are hereby incorporated by reference as if set forth fully herein.

WHEREFORE Defendant, GEICO CASUALTY COMPANY, hereby requests that this Court dismiss Plaintiff's Petition for Damages, with prejudice, and for all further orders that it deems just and proper.

WATTERS WOLF BUB & HANSMANN, LLC

/s/ Jackie M. Kinder

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served by the Court's electronic filing system, this 9th day of May, 2024, on the counsel of record listed below. In addition, the undersigned counsel certifies under the Federal Rules of Civil Procedure that he/she has signed the original of this Certificate and the foregoing pleading.

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